

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARCIANO MENDEZ MAYA,

Defendant.

Case No. CR07-5260RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion for an Extension of Time to File a Motion Pursuant to 28 U.S.C. §2255. Having considered the entirety of the records and file herein, the Court finds and rules as follows:

The defendant has filed the instant motion requesting an extension of time beyond the one-year statute of limitations contained in 28 U.S.C. §2255(f) to file a motion pursuant to 28 U.S.C. §2255. Because the defendant did not file a Notice of Appeal, his one-year period to file a §2255 motion expires on July 12, 2009. The defendant requests this extension because he is attempting to obtain his file from his previous attorney. In order to preserve the defendant's right to file a §2255 motion, the Court hereby directs the Clerk to file this motion as a motion pursuant to 28 U.S.C. §2255. The defendant shall have until July 31, 2009 to either file a substantive §2255 motion or to request a further extension of time.

The defendant is reminded that the plea agreement he entered into and that the Court accepted contained a Waiver of Appeal, including a waiver of the right to file a motion under 28 U.S.C. §2255

1 except as to the issue of ineffective assistance of counsel. In any substantive motion under §2255, the
2 only issues the defendant may raise must be limited to allegations of ineffective assistance of counsel.

3 **IT IS SO ORDERED.**

4 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party
5 appearing pro se. The Clerk shall also send the defendant a copy of his plea agreement [Dkt. #41].

6 Dated this 30th day of June, 2009.

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9 RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE